

	<b>RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM</b>		<b>1:8</b>
	<b>USE OF FORCE</b>		
	<b>Effective Date: 05-22-2018</b>	<b>Supersedes: 1:8 (01-22-2018)</b>	

**1:8-1**

## **PURPOSE**

The purpose of this directive is to provide clear and concise guidelines regarding the use of force by members of this agency.

**1:8-2**

## **POLICY**

Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility of every sworn law enforcement officer to comply with the laws of the State of New Jersey regarding the use of force and to comply with the provisions of this policy. Equally important is the obligation to prepare individual officers in the best way possible to exercise that authority.

In situations where agency employees are justified in using force, the utmost restraint should be exercised. **The use of force should never be considered routine.** In determining whether to use force, each employee shall be guided by the principle that the degree of force employed in any situation should be only that which is reasonably necessary. Employees should exhaust all other reasonable means before resorting to the use of force. **It is the policy of the State of New Jersey, and this department, that employees will use only that force that is objectively reasonable and necessary to accomplish lawful objectives.**

This policy reinforces the responsibility of employees to take those steps possible to prevent or stop the illegal or inappropriate use of force by other employees. Every law enforcement officer is expected and required to take appropriate action in any situation where that officer is clearly convinced that another employee is using force in violation of state law or this directive.

Officers have a legal, moral and ethical obligation to report all situations in which force is used illegally by anyone. This policy sends a clear message to officers that they share an obligation beyond the requirements of law. Officers are encouraged to do whatever they can to interrupt the flow of events before a fellow officer does something illegal and before any official action is necessary. Officers can serve each other and the public by simply saying or doing the right thing to prevent a fellow officer from resorting to force illegally or inappropriately.

Deciding to utilize force when authorized in the conduct of official responsibilities is among the most critical decisions made by officers. It is a decision that can be irrevocable. It is a decision that must be made quickly and under difficult, often unpredictable and unique circumstances. Sound judgment and the appropriate exercise of discretion will always be the foundation of police officer decision-making in the broad range of possible use of force situations. It is not possible to entirely replace judgment and discretion with detailed policy provisions. Nonetheless, this directive is intended to provide the best guidance and direction possible to officers when called upon to confront and address the most difficult of situations. Officers whose actions are consistent with the law and the provisions of this directive will be strongly supported by the law enforcement community in any subsequent review of their conduct regarding the use of force. Conversely,

officers whose actions are contrary to law and the provisions of this directive may be subject to disciplinary action, up to and including criminal prosecution and/or termination.

### 1:8-3

## DEFINITIONS

**Constructive Authority** does not involve actual physical contact with a subject, but involves the use of the officer's authority to exert control over a subject. Examples include verbal commands, gestures, warnings, and un-holstering a weapon. Pointing a firearm at a subject is an element of constructive authority to be used only in appropriate situations.

**Physical Contact** involves routine or procedural contact with a subject necessary to effectively accomplish a legitimate law enforcement objective. Examples include, guiding a subject into a police vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.

**Physical Force** involves contact with a subject beyond that which is generally utilized to affect an arrest or other law enforcement objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of the officer's authority, or to protect persons or property. Examples include, wrestling a resisting subject to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation.

**Mechanical Force** involves the use of some device or substance, other than a firearm, to overcome a subject's resistance to the exertion of the officer's authority. Examples include the use of a baton, PR-24 or other object, canine physical contact with a subject, or chemical or natural agent spraying.

**Enhanced mechanical force** is an intermediate force option between mechanical force and deadly force requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the use of deadly force. Enhanced mechanical force is applied using less-lethal ammunition and/or a conducted energy device.

**Deadly Force** is force which an officer uses with the purpose of causing, or which the officer knows to create a substantial risk of causing, death or serious bodily harm. Purposely firing a firearm in the direction of another person or at a vehicle, building or structure in which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the officer's purpose is limited to creating an apprehension that deadly force will be used, if necessary, does not constitute deadly force.

**Reasonable Belief** is an objective assessment based upon an evaluation of how a reasonable police officer with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the officer at the scene.

**Law Enforcement Officer/Officer** is any person sworn to enforce the criminal laws of the State of New Jersey, who is certified by the Police Training Commission, or is currently employed by a public safety agency and is authorized to carry a firearm under N.J.S.A. 2C:39-6.

**Imminent Danger** describes threatened actions or outcomes that may occur during an encounter absent action by the officer. The period of time involved is dependent on the circumstances and facts evident in each situation and is not the same in all situations. The threatened harm does not have to be instantaneous. For example, imminent danger may be present even if a subject is not at that instant pointing a weapon at the officer, but is carrying a weapon and running for cover.

**Substantial Risk**: Any discharge of a firearm entails some risk of an unintended outcome. A substantial risk exists when an officer disregards a foreseeable likelihood that innocent persons will be endangered. For example, firing a weapon into a confined space (room, vehicle, etc.) occupied by innocent persons exposes those persons to a substantial risk of harm.

**Serious Bodily Injury** means bodily injury, which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

#### 1:8-4

### **AUTHORIZATION AND LIMITATIONS**

#### **a. Use of Force**

1. An officer may use physical force or mechanical force when the officer reasonably believes it is immediately necessary at the time:
  - To overcome resistance directed at the officer or others; or
  - To protect the officer or a third party from unlawful force; or
  - To protect property; or
  - To prevent the escape of an arrested person from custody, or;
  - To affect other lawful objectives, such as make an arrest; or
  - To effectuate other law enforcement objectives, such as make an arrest.
2. Once all resistance or physical force being used to resist or prevent officers from carrying out their duties have ceased, use of further force on the officer's part shall cease.
3. When the officer reasonably believes that physical or mechanical force is immediately necessary, the officer should assess the totality of the circumstances and apply the minimum force necessary to overcome resistance when an individual is using or threatening to use force unlawfully, and bring the situation under control in the safest manner possible.

#### **b. Use of Deadly Force**

1. An officer may use deadly force when the officer reasonably believes such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.
2. An officer may use deadly force to prevent the escape of a fleeing suspect:
  - Whom the officer has probable cause to believe has committed an offense that the suspect caused or attempted to cause death or serious bodily harm; and
  - Who will pose an imminent danger of death or serious bodily harm should the escape succeed; and
  - When the use of deadly force presents no substantial risk of injury to innocent persons.

3. If feasible, officers should identify themselves and state their intention to shoot before using a firearm.

**c. Restrictions on the Use of Deadly Force**

1. An officer is under no obligation to retreat or desist when resistance is encountered or threatened. However, an officer shall not resort to the use of deadly force if an officer reasonably believes that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm and achieve the law enforcement purpose at no increased risk to the officer or another person.
2. An officer shall not use deadly force to subdue persons whose actions are only destructive to property.
3. Deadly force shall not be used against persons whose conduct is injurious only to them.
4. An officer shall not discharge a weapon as a signal for help or as a warning.
5. While any discharge of a firearm entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk of death or serious injury to innocent persons. The safety of innocent people is jeopardized when a fleeing suspect is disabled and loses control of their vehicle. There is also a substantial risk of harm to occupants of the suspect vehicle who may not be involved, or involved to a lesser extent, in the actions that necessitated the use of deadly force. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, officers shall not fire from a moving vehicle or at the driver or occupant of a moving vehicle unless the officer reasonably believes:
  - There exists an imminent danger of death or serious bodily harm to the officer or another person; and
  - No other means are available at that time to avert or eliminate the danger.
6. Officers shall not fire a weapon solely to disable moving vehicles.
7. Destroying an animal is justified only in the following circumstances:
  - Officers may use a firearm to destroy an animal where the animal poses an imminent threat of significant bodily harm to human life; or
  - Officers may use a firearm to destroy an animal that is so badly injured that humanity requires its relief from further suffering and animal control has been notified and either cannot or is unable to respond. If the injured animal is domesticated, personnel shall make every reasonable effort to notify an owner. The firearm discharge shall create no substantial risk to personnel or third parties and must be approved by the shift supervisor or tour commander.

Officers shall be mindful that some animals have insufficient body mass to prevent a bullet from passing completely through their bodies. Therefore, officers must be cognizant of surrounding conditions, such as the composition of the material behind or below the animal, and nearby persons or structures that could be affected by a ricochet or deflection.

When there is suspicion that the animal may be rabid, the point of aim should be the front shoulder area and not the head.

Personnel shall not touch an animal without first protecting themselves from blood borne pathogens. Personnel shall protect any area contaminated with animal body fluids for cleansing by animal control personnel.

Additional provisions relative to the use of Use of Deadly Force with respect to the destruction of an injured animal are discussed at Directive 7:9 – Animal Complaint Investigations.

**d. Exhibiting a Firearm/CED**

An officer shall not unholster or exhibit a firearm or CED except under any of the following circumstances:

1. For maintenance of the firearm or CED;
2. To secure the firearm or CED;
3. During training exercises, practice or qualification with the firearm or CED;
4. When circumstances create a reasonable belief that it may be necessary for the officer to use the firearm or CED;
5. When circumstances create a reasonable belief that the display of a firearm as an element of constructive authority helps establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure officer safety or CED;
6. When ordered by a supervisor or other lawful authority.

**e. Weapons & Ammunition**

1. Only weapons and ammunition authorized by the department may be used by agency personnel in the performance of their responsibilities.
2. Only agency personnel demonstrating proficiency in the use of agency authorized weapons are approved to carry such weapons.

**1:8-5 TRAINING REQUIREMENTS**

- a. This department will conduct and document semi-annual training for all officers on the lawful and appropriate use of force and deadly force. This training will be designed to reflect current standards established by statutory and case law, as well as state, county and departmental policy and guidelines. The training program will include the use of force in general, the use of physical and mechanical force, the use of deadly force, decision making skills and the limitations that govern the use of force and deadly force.
  1. Officers, at all ranks, will be required to complete a written test with a passing score when attending this training.
  2. This training will be conducted as part of this agency's firearms qualification program.
- b. Qualification & training requirements for agency approved weapon systems are discussed throughout Chapter 12 of the Written Directive System; that notwithstanding:
  1. All agency personnel authorized to carry and use lethal weapons are required to demonstrate proficiency at least biannually.
  2. All agency personnel authorized to carry and use less lethal weapons and weaponless control techniques shall receive training at least biennially.

**1:8-6****USE OF FORCE REPORTS**

- a. In all instances when physical, mechanical or deadly force (including the discharge of a firearm or CED) is used, each employee who has employed such force shall complete and submit:
  - Any investigative document made necessary by the nature of the underlying incident (Investigations report, etc.); and
  - A Use of Force Report through the BlueTeam reporting system
- b. The above provision (1:8-6a) shall not apply when a firearm is discharged for training or recreational purposes, or when such force is used in an effort to euthanize an animal. When used to euthanize an animal, an incident and BlueTeam report shall be completed and submitted.
- c. When an officer un-holsters and exhibits a firearm or CED (including conducting a CED spark display); the officer shall complete a Show of Force Report, through the BlueTeam reporting system as well document the action in the incident report made necessary by the nature of the underlying incident. A Conducted Energy Device Deployment Review Report is only required when a CED is deployed.
- d. When dealing with emotionally disturbed persons or medical calls requiring force, officers shall note such in the incident report. If excited delirium is suspected, the following information should be included in the report:
  - 1. Conditions at the incident scene;
  - 2. Description of the subject's behavior and its duration;
  - 3. Description of what the subject said during the encounter;
  - 4. Type and duration of resistance;
  - 5. Identity of all officers at the scene;
  - 6. Actions taken to control the subject;
  - 7. Restraints used on the subject and the length of time applied;
  - 8. Location of the restraints on the subject;
  - 9. Response time and actions taken by EMS, including a list of drugs given to the patient;
  - 10. Means of transport and total elapsed time of transport;
  - 11. Behavior of the subject during transport;
  - 12. Means of resuscitation, if applicable;
  - 13. Information from relatives and friends of the subject that can provide insight to the potential causation of the incident.
- e. Whenever an agency employee, regardless of position within the agency, takes an action that results in or is alleged to result in, injury or death of another person; the employee taking such action is required to file a written report detailing the circumstances of the incident. This shall comply with the reporting requirements prescribed above at 1:8-6a, or take the form of an operations report depending upon the circumstances of the incident.
- f. When completing the Use of Force Report(s), particular attention should be paid to injuries sustained prior to police action as questions regarding injuries and/or hospitalization regard only those either caused or made necessary by police action. Injuries sustained prior to police action or conditions requiring

hospitalization not related to police action should **NOT** be documented on this form. *For example, if physical force is utilized by police to separate fighting subjects and one subject is hospitalized for injuries sustained during the fight and not as a result of the force used to separate the subjects, this should NOT be noted on the Use of Force Report, but instead in the narrative of the investigative document as injuries sustained prior to police action.*

- g. In all instances where constructive authority results in the pointing of a firearm at another person, the facts and circumstances shall be reported on the investigative document made necessary by the nature of the underlying incident.
- h. The attending supervisor shall review of the Use of Force report for accuracy and completeness and ensure the provisions of this directive are properly addressed. Supervisors should forward any recommendations for remedial training and/or corrective action in writing through the normal chain of command.
- i. The division commander of the involved employee shall conduct an administrative review of the incident and forward same, in written form, to the Office of the Chief of University Police within 72 hours of the incident. The administrative review shall properly address any issues as they may pertain to policy changes, training, weapons or equipment, or corrective action. Recommendations to modify policy; apply remedial training beyond what can be performed by the supervisor; change weapons, equipment, or tactics; or apply corrective action shall be forwarded in writing through the normal chain of command.
- j. The Use of Force report shall be forwarded to the Internal Affairs Bureau, where it shall be stored in a file separate from the incident. The Internal Affairs Bureau Commander shall review these reports to notice any trends or issues that need to be studied, analyzed, and/or addressed.
- k. The Internal Affairs Commander is responsible for completing the annual use of force analysis report and submitting it to the Chief of Police. This analysis should be completed by February 15<sup>th</sup> of the following year.
- l. The annual Use of Force Analysis shall identify: (1) incidents by date and time; (2) types of encounters resulting in use of force; (3) trends or patterns related to race, age, gender of subjects involved; (4) trends or patterns resulting in injury to persons including employees and (5) impact of findings on policies, practices, equipment, and training. In addition, the analysis shall include a review of all assaults on law enforcement officers to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues
- m. The Internal Affairs Commander shall be responsible for completing the quarterly and annual Use of Force Summary Reports in a manner prescribed by the appropriate County Prosecutor.

#### **1:8-7 ARRESTS REQUIRING THE USE OF FORCE**

- a. Except when dealing with an emotionally disturbed person (EDP), whenever a person resists the officer's action and force is used, one of the following charges (whichever is applicable) should be considered to be made against the subject. This charge is in addition to the charges that precipitated the arrest.

- N.J.S.A. 2C: 29-2a(1) – a person is guilty of a disorderly persons offense if he purposely prevents a law enforcement officer from effectuating a lawful arrest; or
- N.J.S.A. 2C: 29-2a (2) – a person is guilty of a crime of the fourth degree, if by flight, he purposely prevents or attempts to prevent a law enforcement officer from effectuating an arrest; or
- N.J.S.A. 2C: 29-2a (3) – a person is guilty of a crime of the third degree if he used, or threatened to use, physical force or violence against the law enforcement officer or another; or, (2) subject used any other means to create a substantial risk of causing physical injury to the public servant or another.

#### **1:8-8 SUPPLEMENTAL**

- a. If the use of force results in an injury to any party, prompt emergency medical attention shall be offered and/or provided, this includes injuries incurred during apprehensions. The extent of the injury and the treatment offered/provided shall be documented in the body of the investigative report.
- b. The attending supervisor shall ensure that the Chief of University Police, Deputy Chief of University Police, respective Chief of Campus Police and Internal Affairs Commander are immediately notified when the use of physical, mechanical or deadly force results in death or serious bodily injury, or when injury of any degree results from the use of a firearm by an employee. This notification should be noted on the investigative document and as a Time-Stamp entry in the CAD record of the incident.
- c. After completing the notification required above (1:8-8b), the Deputy Chief of University Police or Internal Affairs Commander will be responsible for causing notification to the Division of Criminal Justice (NJ DCJ) as required by Attorney General's Directive 2006-05. This notification should also be noted on the investigative document as a Time-Stamp entry in the CAD record of the incident.
  - Consistent with Attorney General's Directive 2006-05, as amended, the NJ Division of Criminal Justice will become the lead-investigating agency and a shooting response team (consisting of DCJ investigators and members of the New Jersey State Police Major Crimes Unit) shall normally conduct the investigation.
- d. Employees whose actions or use of force results in a death or serious injury to any other person shall be removed from line duty assignment pending administrative review of the facts and circumstances of the incident.